THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION Nos.11652,11653 and 11654 of 2006

Dated:19-06-2006

Between:

M. Raghu and others.

..... PETITIONERS

AND

The District Collector, Hyderabad, and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos.11652,11653 and 11654 of 2006

COMMON ORDER:

These three writ petitions can be disposed of by a common order as the dispute raised is of similar nature.

The petitioners in W.P.Nos.11652 and 11653 of 2006 purchased an extent of 500 sq. yards each in T.S.No.5 (Survey No.403) of Shaikpet Village marked as plot Nos.107 and 109 respectively from M/s Women Cooperative Housing Society Limited (the society, for brevity). The petitioner in W.P.No.11654 of 2006 purchased land admeasuring 500 sq. yards from one A. Syeed, who purchased the land from the society in 1979. The petitioners allege that the land was the absolute property of one Sayanna, who sold the same to the society in 1972. There was a considerable litigation in regard to the property in T.S.No.5 (Survey No.403) situated in Shaikpet Village. The District Collector, in exercise of powers under Section 166-B of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1371 Fasli (hereinafter called, the Act), passed orders on 17-07-1985, cancelling the assignment made to

Sayanna. After a long drawn litigation, ultimately by a common judgment dated 17-02-2006 in a batch of writ petitions and writ appeals being W.P.Nos.10440 of 1985 and others and W.A.Nos.860 of 1989 and batch, the Division Bench of this Court invalidated the cancellation made by the District Collector. It is alleged that though the said judgment has become final, respondents
1 and 2 herein are interfering with the petitioners' peaceful possession of the property and obstructing the construction of houses though the petitioners obtained valid building permission from the Municipal Corporation of Hyderabad about a decade ago. Therefore, all of them filed these writ petitions seeking a writ of Mandamus declaring the action of the respondents 1 and 2 in interfering with the petitioners' peaceful possession of their respective properties as illegal and arbitrary, and for a consequential direction to the respondents 1 and 2 not to interfere with the possession or with the construction taken up by the petitioners.

At the stage of admission itself, the learned Assistant Government Pleader for Revenue (General) obtained instructions from his clients. He submits that the government has already filed a special leave petition against the judgment of the division bench dated 17-02-2006 in W.P. Nos.10440 of 1985 and batch and therefore, the Mandal Revenue Officer is only trying to protect the government property. He, however, denies the allegation of interference with the possession.

During the course of the arguments, both the counsel brought to the notice of this Court that an order passed by me in W.P.No.6356 of 2006 dated 03-04-2006 dealt with another extent of plot in the same survey number owned by another person. The background of this case and the case decided earlier is the same. Therefore, both the counsel requests this Court to pass a similar order. The observations made in the said order to the following effect are relevant:

> There is no denial that Sayanna was granted a patta under Laoni Rules. The same was cancelled by the District Collector by proceedings, dated 17-07-1985, which was set aside by this Court in W.P.No.10440 of 1985 and batch. Therefore, unless and until the judgment of this Court is set aside, there cannot be any objection for the petitioner claiming title over the land to an extent of 1058 square yards, which he purchased from the legal heirs of Sayanna. It is no doubt true that the third parties filed L.G.C.No.268 of 1995 claiming the property and even the competency of such LGC cannot give any cause to the second respondent to resort to high-handed action. Therefore, the complaint made by the petitioner before this Court is not without substance. It is needless to point out that a party to the proceedings before this Court, be it a public authority or otherwise, cannot deny the right of the successful party on the ground that such public authority is taking recourse to the appellate forum. That would amount to rendering the judgment delivered by this Court ineffective.
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> Therefore, this Writ Petition is disposed of directing respondents 1 and 2 not to interfere with the possession of the petitioner in respect of Plot No.42 in T.S.No.5 of Shaikpet Village, Hyderabad, without due process of law. The learned counsel for the petitioner submits that the petitioner was only trying to protect the property by constructing the compound wall and he is not constructing any residential house at present. The same is recorded. No costs.

Following the same, these writ petitions are disposed of. The respondents are directed not to interfere with the possession of the petitioners from their respective plots in T.S.No.5 of Shaikpet Village, without due process of law. The learned counsel for the petitioners,

Dr. Y. Padmavathi, on instructions, submits that except making construction of compound wall, her clients shall not take up any construction on their plots. The same is recorded. No costs.

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V.V.S.RAO, J

19th June, 2006

Note: Issue CC in two days.

B/o

ghn